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## SENATE BILL No. 246

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-4-1-18; IC 5-11; IC 5-14-1.5-6.1; IC 5-24; IC 9-14-3-0.3; IC 13-14-13.

**Synopsis:** State board of accounts matters. Increases the amount of the surety bond that must be filed by various local government officials. Provides that the periodic financial reports filed by state and local government entities with the state examiner of the state board of accounts (SBOA) must be filed electronically. Permits the state examiner to conduct performance audits of the same public offices and officers, state offices, state institutions, and entities that are currently subject to financial audits by the SBOA. Removes certain restrictions on the payment of travel expenses to field examiners of the SBOA for assignments within their county of residence. Permits the governing body of a public agency to conduct an executive session for purposes of meeting with the SBOA in an entrance conference or exit conference during the audit process. Repeals a statute requiring the SBOA to implement and administer a method to be used by the state to conduct authenticated electronic transactions using digital signatures. Makes conforming changes to reflect the repeal of the digital signature statute.

**Effective:** July 1, 2009.

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January 7, 2009, read first time and referred to Committee on Local Government.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 246

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-4-1-18, AS AMENDED BY P.L.146-2008,  
2       SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2009]: Sec. 18. (a) Except as provided in subsection (b), the  
4       following city, town, county, or township officers and employees shall  
5       file an individual surety bond:

6               (1) City judges, controllers, clerks, and clerk-treasurers.

7               (2) Town judges and clerk-treasurers.

8               (3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners,  
9               assessors, and clerks.

10              (4) Township trustees.

11              (5) Those employees directed to file an individual bond by the  
12              fiscal body of a city, town, or county.

13              (6) Township assessors (if any).

14       (b) The fiscal body of a city, town, county, or township may by  
15       ordinance authorize the purchase of a blanket bond or a crime  
16       insurance policy endorsed to include faithful performance to cover the  
17       faithful performance of all employees, commission members, and

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persons acting on behalf of the local government unit, including those officers described in subsection (a).

(c) The fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

(1) The amount must equal ~~fifteen~~ **thirty** thousand dollars ~~(\$15,000)~~ **(\$30,000)** for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2).

(2) The amount may not be less than ~~fifteen~~ **thirty** thousand dollars ~~(\$15,000)~~ **(\$30,000)** nor more than three hundred thousand dollars (\$300,000).

County auditors shall file bonds in amounts of not less than ~~fifteen~~ **thirty** thousand dollars ~~(\$15,000)~~ **(\$30,000)**, as fixed by the fiscal body of the county. The amount of the bond of any other person required to file an individual bond shall be fixed by the fiscal body of the unit at not less than ~~eight fifteen~~ thousand ~~five hundred~~ dollars ~~(\$8,500)~~ **(\$15,000)**.

(d) A controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file an individual surety bond in an amount:

(1) fixed by the board of directors of the solid waste management district; and

(2) that is at least ~~fifteen~~ **thirty** thousand dollars ~~(\$15,000)~~ **(\$30,000)**.

(e) Except as provided under subsection (d), a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the board of directors.

(f) In 1982 and every four (4) years after that, the state examiner shall review the bond amounts fixed under this section and report in an electronic format under IC 5-14-6 to the general assembly whether changes are necessary to ensure adequate and economical coverage.

(g) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section, in consultation with the commission on public records under IC 5-15-5.1-6.

SECTION 2. IC 5-11-1-4, AS AMENDED BY P.L.189-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The state examiner shall require from every

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1 municipality and every state or local governmental unit, entity, or  
 2 instrumentality financial reports covering the full period of each fiscal  
 3 year. Except as provided by subsection (b), these reports shall be  
 4 prepared, verified, and filed with the state examiner not later than thirty  
 5 (30) days after the close of each fiscal year. **The reports must be filed**  
 6 **electronically, in the manner prescribed by the state examiner.**

7 (b) The following shall prepare, verify, and file the reports required  
 8 under subsection (a) not later than sixty (60) days after the close of  
 9 each fiscal year:

10 (1) A municipal government.

11 (2) A public library.

12 (3) A district (as defined in IC 13-11-2-58(a)) that owns a landfill  
 13 (as defined in IC 13-11-2-116(c)).

14 SECTION 3. IC 5-11-1-9, AS AMENDED BY P.L.217-2007,  
 15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2009]: Sec. 9. (a) The state examiner, personally or through  
 17 the deputy examiners, field examiners, or private examiners, shall  
 18 examine all accounts and all financial affairs of every public office and  
 19 officer, state office, state institution, and entity.

20 (b) An examination of an entity deriving:

21 (1) less than fifty percent (50%); or

22 (2) at least fifty percent (50%) but less than one hundred thousand  
 23 dollars (\$100,000) if the entity is organized as a not-for-profit  
 24 corporation;

25 of its disbursements during the period of time subject to an  
 26 examination from appropriations, public funds, taxes, and other sources  
 27 of public expense shall be limited to matters relevant to the use of the  
 28 public money received by the entity.

29 (c) The examination of an entity described in subsection (b) may be  
 30 waived or deferred by the state examiner if the state examiner  
 31 determines in writing that all disbursements of public money during the  
 32 period subject to examination were made for the purposes for which the  
 33 money was received. However, the:

34 (1) Indiana economic development corporation created by  
 35 IC 5-28-3 and the corporation's funds, accounts, and financial  
 36 affairs; and

37 (2) department of financial institutions established by  
 38 IC 28-11-1-1 and the department's funds, accounts, and financial  
 39 affairs;

40 shall be examined biennially by the state board of accounts.

41 (d) On every examination under this section, inquiry shall be made  
 42 as to the following:

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(1) The financial condition and resources of each municipality, office, institution, or entity.

(2) Whether the laws of the state and the uniform compliance guidelines of the state board of accounts established under section 24 of this chapter have been complied with.

(3) The methods and accuracy of the accounts and reports of the person examined.

The examinations shall be made without notice.

(e) If during an examination of a state office under this chapter the examiner encounters an inefficiency in the operation of the state office, the examiner may comment on the inefficiency in the examiner's report.

(f) The state examiner, deputy examiners, any field examiner, or any private examiner, when engaged in making any examination or when engaged in any official duty devolved upon them by the state examiner, is entitled to do the following:

(1) Enter into any state, county, city, township, or other public office in this state, or any entity, agency, or instrumentality, and examine any books, papers, documents, or electronically stored information for the purpose of making an examination.

(2) Have access, in the presence of the custodian or the custodian's deputy, to the cash drawers and cash in the custody of the officer.

(3) During business hours, examine the public accounts in any depository that has public funds in its custody pursuant to the laws of this state.

(g) The state examiner, deputy examiner, or any field examiner, when engaged in making any examination authorized by law, may issue subpoenas for witnesses to appear before the examiner in person or to produce books, papers, or other records (including records stored in electronic data processing systems) for inspection and examination. The state examiner, deputy examiner, and any field examiner may administer oaths and examine witnesses under oath orally or by interrogatories concerning the matters under investigation and examination. Under the authority of the state examiner, the oral examinations may be transcribed with the reasonable expense paid by the examined person in the same manner as the compensation of the field examiner is paid. The subpoenas shall be served by any person authorized to serve civil process from any court in this state. If a witness duly subpoenaed refuses to attend, refuses to produce information required in the subpoena, or attends and refuses to be sworn or affirmed, or to testify when called upon to do so, the examiner may apply to the circuit court having jurisdiction of the witness for the

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enforcement of attendance and answers to questions as provided by the law governing the taking of depositions.

**(h) The state examiner may conduct a performance audit of any public office and officer, state office, state institution, or entity.**

SECTION 4. IC 5-11-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Traveling expenses of field examiners shall be allowed and paid on the same basis as provided by law for other state officers and employees when engaged on assignments. ~~outside the county of their actual residence during the full period of such assignment: Provided, That examiners working outside of the county of their actual residence and returning to their homes daily shall be allowed transportation expense at the rate established by the budget committee for other state officers and employees: Provided, further, That the same transportation expense may be allowed examiners when required to travel within the county of their actual residence while engaged in two (2) or more separate assignments.~~ Claims **under this section** for such compensation and traveling expense, when approved by the state examiner, shall be filed with the auditor of state monthly, who shall draw ~~his a~~ warrant in payment of ~~same: the claims.~~

SECTION 5. IC 5-14-1.5-6.1, AS AMENDED BY P.L.120-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.
- (b) Executive sessions may be held only in the following instances:
  - (1) Where authorized by federal or state statute.
  - (2) For discussion of strategy with respect to any of the following:
    - (A) Collective bargaining.
    - (B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.
    - (C) The implementation of security systems.
    - (D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

- (3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

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(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, the ports of Indiana, an economic development commission, the Indiana state department of agriculture, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the

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public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

**(14) To meet with the state board of accounts in an entrance conference or exit conference during the audit process under IC 5-11.**

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 6. IC 9-14-3-0.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.3. As used in this chapter, "digital signature" ~~has the meaning set forth in IC 5-24-2-1.~~ means an electronic identifier that:

**(1) is created by a computer and is executed or adopted by the party using it with the intent to authenticate a writing; and**

**(2) transforms a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine whether:**

**(A) the transformation was created using the private key that corresponds to the signer's public key; and**

**(B) the initial message has been altered since the transformation was made.**

SECTION 7. IC 13-14-13-2, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2009]: Sec. 2. The department may accept the electronic submission of information only if the submission meets the following:

- ~~(1) Standards established under IC 5-24 and corresponding rules.~~
- ~~(2) (1) Requirements of cross-media electronic reporting under 40 CFR 3.~~
- ~~(3) (2) Procedures established by the department to accept electronic information.~~

SECTION 8. IC 13-14-13-4, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The department may adopt procedures that are consistent with federal law for compliance with this chapter to allow an applicant to submit an electronic document bearing the valid electronic signature of a signatory if that signatory would otherwise be required to sign the paper document for which the electronic document substitutes.

(b) The procedures adopted under subsection (a) may provide for electronic signature standards that are

- ~~(1) acceptable to the state board of accounts under IC 5-24; and~~
- ~~(2) consistent with 40 CFR 3.~~

SECTION 9. IC 13-14-13-6, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A person is subject to applicable state or federal civil, criminal, or other penalties and remedies for failure to comply with a reporting requirement if the person submits an electronic document that:

- (1) is in place of a paper document under this chapter; and
- (2) fails to comply with the following:
  - ~~(A) Standards established under IC 5-24 and supporting rules.~~
  - ~~(B) (A) Requirements of cross-media electronic reporting under 40 CFR 3.~~
  - ~~(C) (B) Procedures established by the department to accept electronic information.~~

SECTION 10. IC 5-24 IS REPEALED [EFFECTIVE JULY 1, 2009].

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